

**E2SHB 1216** - S COMM AMD TO ENET COMM AMD (S-1874.1/23)

By Committee on Ways & Means

1       On page 1, line 22, after "task." insert "The legislature intends  
2 to make biennial appropriations to support tribal review of clean  
3 energy project proposals, permit applications, and environmental  
4 reviews, as well as tribal participation in up-front planning for  
5 clean energy projects, such as nonproject environmental impact  
6 statements for clean energy projects as described in this act."

7       On page 8, line 7, after "90.48" insert "or 77.55"

8       On page 16, after line 30, insert the following:

9       "(11) (a) Permitting decisions made by state and local  
10 jurisdictions under the fully coordinated permitting process in this  
11 chapter are considered final, subject to any appeals process  
12 available to applicants or other parties. Applicants utilizing the  
13 fully coordinated permitting process in this chapter are not eligible  
14 for permitting under chapter 80.50 RCW unless a substantial change is  
15 made to the proposed project.

16       (b) Prior to considering an application under chapter 80.50 RCW  
17 from a project applicant that has previously used the fully  
18 coordinated permitting process under this chapter for the project,  
19 the energy facility site evaluation council must determine that the  
20 project applicant has made a substantial change to the project,  
21 relative to the project as it was proposed under the fully  
22 coordinated permitting process."

23       On page 17, line 37, after "(4)" insert "For a fully coordinated  
24 permitting process, a project proponent may enter directly into a  
25 cost-reimbursement agreement similar to that described in subsection  
26 (1) of this section, to reimburse the costs of a federally recognized  
27 Indian tribe for reviewing and providing input on the siting and  
28 permitting of a clean energy project.

29       (5) "

1 On page 18, line 26, after "tribes" insert "potentially impacted  
2 by the project"

3 On page 18, beginning on line 29, after "tribes" strike "within  
4 the project area" and insert "potentially impacted by the project"

5 On page 18, line 37, after "tribes" strike "within the project  
6 area. Discussions may" and insert "potentially impacted by the  
7 project. Any resultant discussions must"

8 On page 20, after line 39, insert the following:

9 NEW SECTION. **Sec. 211.** A new section is added to chapter 80.50  
10 RCW to read as follows:

11 Applicants utilizing the fully coordinated permitting process  
12 under chapter 43.--- RCW (the new chapter created in section 402 of  
13 this act) are not eligible for permitting under this chapter unless a  
14 substantial change is made to the proposed project. Prior to  
15 considering an application under this chapter from a project  
16 applicant that has previously used the fully coordinated permitting  
17 process under chapter 43.--- RCW (the new chapter created in section  
18 402 of this act) for that project, the council must determine that  
19 the project applicant has made a substantial change to the project,  
20 relative to the project as it was proposed under the fully  
21 coordinated permitting process."

22 On page 32, line 16, after "44.39.012;" insert "adding a new  
23 section to chapter 80.50 RCW;"

EFFECT: Specifies that the legislature intends to make biennial appropriations to support tribal review of clean energy project proposals, permit applications, and environmental reviews, as well as tribal participation in up-front planning of clean energy projects. Excludes hydroelectric generation associated with facilities or persons that have been the subject of an enforcement action or settlement that resulted in a penalty or mitigation of at least \$100,000 under state hydraulic project approval laws, from the clean energy projects eligible for designation as a clean energy project of statewide significance, participation in the fully coordinated permit process, and the state environmental policy act changes. Specifies that permitting decisions made by state and local jurisdictions under the fully coordinated permitting process must be considered final, subject to any available appeals process, and that applicants utilizing the coordinated permitting process are not eligible for permitting under the energy facility site evaluation council (EFSEC) certification process for that project, unless a substantial change is made to the proposed project, as determined by EFSEC. Allows a

project proponent to enter into a cost-reimbursement agreement to reimburse the costs of a federally recognized Indian tribe for reviewing and providing input on the siting and permitting of a clean energy project. Requires the department of ecology to engage in a preapplication process with all affected federally recognized Indian tribes potentially impacted by the project after initiation of the fully coordinated permitting process and requires any discussions to include the project's impact to tribal rights, interests, and resources.

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